

Issue: Access to the Grievance Procedure; Ruling Date: October 16, 2013; Ruling No. 2014-3730; Agency: Department of Behavioral Health and Developmental Services; Outcome: Access Denied.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Employment Dispute Resolution

ACCESS RULING

In the matter of the Department of Behavioral Health and Developmental Services
Ruling Number 2014-3730
October 15, 2013

The Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) has received a Grievance Form A challenging the grievant’s dismissal from the Department of Behavioral Health and Developmental Services (the “agency”). Because the grievant was separated during her probationary period, there is a question as to whether she has access to the grievance procedure. For the reasons set forth below, EDR concludes that the grievant does not have access to the grievance process to initiate this grievance.

Pursuant to DHRM Policy 1.45, employees serve a 12-month probationary period, which can be extended by the agency for up to six months.¹ The General Assembly has provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² The grievant had not completed her twelve-month probationary period when she was terminated on September 25, 2013.³ Employees who have not completed their probationary period do not have access to the grievance procedure.⁴ Accordingly, the grievant does not have access to the grievance procedure to initiate a grievance to challenge her termination. Therefore, this dismissal grievance will be closed and not proceed to hearing.

EDR’s access rulings are final and nonappealable.⁵

A handwritten signature in black ink, appearing to read "Chris M. Grab", written over a horizontal line.

Christopher M. Grab
Director
Office of Employment Dispute Resolution

¹ DHRM Policy 1.45, *Probationary Period*.

² Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

³ The grievant began working with the agency on or about June 25, 2013 in a classified position.

⁴ *E.g.*, EDR Ruling No. 2011-2940.

⁵ Va. Code § 2.2-1202.1(5).